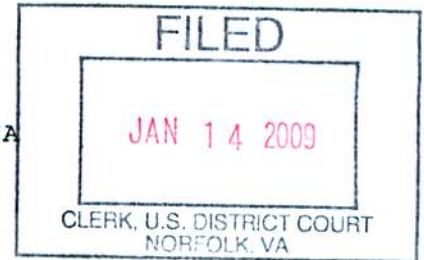


UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA  
Norfolk Division



PHILLIP EUGENE EVANS, #342475

Petitioner,

v.

2:08CV492

GENE M. JOHNSON, Director of the  
Virginia Department of Corrections,

Respondent.

FINAL ORDER

This matter was initiated by petition for a writ of habeas corpus under 28 U.S.C. § 2254. The petition was not accompanied by either a request to proceed in forma pauperis or the required filing fee.

The petition alleges violation of federal rights pertaining to the loss of "sentence credits" due to petitioner's failure to participate in a "Therapeutic Community Program." Petitioner is in custody in the Tazewell Correctional Unit as a result of his convictions on December 14, 2004; January 10, 2005; and January 26, 2005, in the Circuit Courts of Henrico and Chesterfield Counties.

The matter was referred to a United States Magistrate Judge pursuant to the provisions of 28 U.S.C. § 636(b)(1)(B) and (C) and Rule 72 of the Rules of the United States District Court for the Eastern District of Virginia for report and recommendation. The Magistrate Judge filed his report recommending dismissal of the petition on December 18, 2008. By copy of the report, petitioner was advised of his right to file written objections to the findings and recommendations made by the

Magistrate Judge. The Court has received no objections to the report, and the time for filing same has expired.

The Court does hereby accept the findings and recommendations set forth in the report of the United States Magistrate Judge. Therefore, it is ORDERED that the petition be DENIED and DISMISSED on the basis of petitioner's failure to comply with the Court's Orders directing him to pay the required filing fee.

Petitioner may appeal from the judgment entered pursuant to this Final Order by filing a written notice of appeal with the Clerk of this court, United States Courthouse, 600 Granby Street, Norfolk, Virginia 23510, within thirty days from the date of entry of such judgment. Petitioner has failed to demonstrate "a substantial showing of the denial of a constitutional right." Therefore, the Court, pursuant to Rule 22(b) of the Federal Rules of Appellate Procedure, declines to issue a certificate of appealability. See Miller-El v. Cockrell, 123 S.Ct. 1029, 1039 (2003).

The Clerk shall mail a copy of this Final Order to petitioner.

  
Robert G. Bouman  
Senior United States District Judge  
UNITED STATES DISTRICT JUDGE

Norfolk, Virginia

JAN 14, 2009